



Skills Funding
Agency

Procedure for dealing with complaints about providers of education and training

October 2015

Table of contents

Key principles	2
Providers	2
Procedure for dealing with complaints about providers	4
Who will investigate?	4
When the Skills Funding Agency will investigate	4
When the Skills Funding Agency will not investigate	4
What the Skills Funding Agency will do.....	5
What action the Skills Funding Agency can take	9
If the complainant remains dissatisfied	10

Key principles

- 1) The Skills Funding Agency (SFA), on behalf of the Secretary of State, and Providers of Education and Training (Providers) should be receptive to genuine expressions of dissatisfaction.
- 2) The SFA was granted approval as a consumer Alternative Dispute Resolution body by the Chartered Trading Standards Institute (CTSI) on 30 September 2015.
- 3) We will deal with complaints promptly, fairly and proportionately.
- 4) Any action that we take as a result of complaints should help to improve the quality of education that further education (FE) colleges provide, post-19 education and training, and apprenticeships.
- 5) In dealing with complaints, the SFA will take account of its duty to promote equality and diversity.

Providers

- 6) This procedure covers the following providers:
 - FE colleges (not including sixth-form colleges).
 - Those delivering apprenticeships.
 - Those delivering other education and training suitable for persons aged 19 and over and funded by the SFA.

We will investigate complaints about all courses that the SFA funds and those courses funded by an Advanced Learning Loan.

- 7) Providers are required to have published procedures for handling complaints. These procedures should contain a process by which a learner or other organisation can make a complaint, have it investigated, reviewed and resolved. The procedure should also outline the process, timescales and named individuals.
- 8) Providers should ensure that learners understand all details of the complaints procedure and make complaints information available in other formats (for example, Braille, large print, other languages).
- 9) Providers should have an appeals process to deal with any challenges to the decision.
- 10) Providers should ensure that learners or other organisations receive relevant information about such procedures. They should also supply them with relevant contact details for the SFA when they cannot resolve complaints themselves.
- 11) The SFA will not usually investigate complaints until the provider's procedure, including the appeal, has been exhausted. If the SFA believes that the provider is not dealing with a complaint appropriately or effectively, we may intervene before the provider's procedure has been exhausted.

Procedure for dealing with complaints about providers

Who will investigate?

- 12) Forward complaints about providers to the Complaints Team, Skills Funding Agency, Cheylesmore House, Quinton Road, Coventry, CV1 2WT or email complaintsteam@sfa.bis.gov.uk.
- 13) We will appoint an appropriate officer to investigate the complaint.
- 14) If the complaint concerns an allegation of fraud or financial irregularity, we will pass it to the Strategic Intervention Team for investigation.

When the Skills Funding Agency will investigate

- 15) We **can investigate** complaints about:
 - the quality or management of education and training
 - undue delay or non-compliance with published procedures
 - poor administration by the provider
 - equality and diversity issues (except where there is a more appropriate mechanism for dealing with the matter through the court, tribunals or other organisations)
 - health and safety concerns (unless these are matters for the Health and Safety Executive)

When the Skills Funding Agency will not investigate

- 16) We **will not investigate** complaints about:

- examination results or curriculum content where a more appropriate form of redress would be the examining body or the Office of Qualifications and Examinations Regulation (Ofqual)
 - individual employment issues (not in the wider public interest), which are a matter for the employer and the employee where employment law provides appropriate remedies
 - contractual disputes which arise from a contractual agreement between a provider and a party providing services to the provider or from someone who is not a consumer of the provider's services
 - matters that are the subject of legal action
 - Higher education (HE) courses in FE colleges, which you should direct to the Office of the Independent Adjudicator for HE
- 17) Except in relation to complaints about irregularity, we will not usually investigate complaints more than 12 months after the decision or action was taken.
- 18) We reserve the right not to investigate vexatious or malicious complaints.

What the Skills Funding Agency will do

- 19) On receipt of a complaint the appropriate officer should check:
- the matter is one which the SFA can investigate
 - if the decision or action complained about occurred more than 12 months ago (if so, the SFA will not normally investigate, unless the complainant has good reason for the delay in making the complaint)

- whether the allegations relate to fraud or irregularity (if so, the appropriate officer shall notify the Strategic Intervention Team to discuss appropriate investigation procedures)
 - the appropriate officer should consider whether it is possible to resolve the complaint informally and, if the complainant agrees, should arrange to contact the provider to explore whether they can resolve the complaint
- 20) Within five working days of receiving a complaint the appropriate officer should acknowledge receipt and send a copy of this procedure to the complainant. The appropriate officer should inform the complainant whether the complaint is one which the SFA will investigate. In cases alleging fraud or irregularity the appropriate officer will inform the complainant that their complaint has been passed to the Strategic Intervention Team for response. Please note that the Strategic Intervention Team's timescales vary, as investigations usually take longer (see paragraph 32).
- 21) If the SFA is to investigate the matter, we will ask the complainant to provide the following:
- Details of their complaint in writing or by email (if they have not already provided this).
 - Confirmation that the provider's complaints procedures have been exhausted, including any appeals procedure, unless the complaint is about potential financial irregularity.
 - Permission to disclose details of their complaint to the provider concerned (however, if the complaint is about potential financial irregularity, we will respect anonymity as long as it does not impede an investigation).

In the case of a complaint about potential financial irregularity, the Strategic Intervention Team may seek further information from the complainant through a telephone or face-to-face meeting.

- 22) If the complainant has difficulties in providing details in writing, the appropriate officer should consider alternative ways of receiving the information.

The SFA will consider complaints made on behalf of a complainant, or assisted by a third party with written permission from the complainant. The complainant will need to confirm in this permission that they agree that the SFA can communicate with that third party on their behalf.

- 23) Within five working days of receiving the written complaint the appropriate officer should prepare a summary of the complaint and send it to the complainant for approval. The complainant should have five working days to respond to this document.
- 24) The appropriate officer should consider any response from the complainant and, if appropriate, amend the summary of complaint before sending this to the provider. The appropriate officer should ask the provider to provide the following within 10 working days:
- Details and copies of the relevant procedures.
 - Confirmation that their procedures have been exhausted.
 - A response to the summary of complaint, together with relevant documents.
 - Confirmation that we can show the information provided to the complainant.

- 25) If at any stage the appropriate officer is satisfied that procedures at the provider have not been properly exhausted, they should write to the parties to indicate that they will not investigate the matter further. Where the appropriate officer judges that the provider has unduly delayed resolving the complaint, or that there is no prospect of the provider resolving the complaint within a reasonable timescale, the SFA may continue to investigate.
- 26) On receipt of the relevant documents and response from the provider, the appropriate officer shall provide the provider's response to the complainant and seek confirmation within five working days as to whether the complainant remains dissatisfied.
- 27) If the matter has not been resolved within 20 working days of agreeing the summary with the complainant, the appropriate officer should consider each aspect of the summary of complaint and determine whether to uphold the complaint, on the balance of probabilities.
- 28) If the appropriate officer cannot resolve the position on the information available, they shall arrange to contact the parties to obtain all necessary further information. If necessary, the appropriate officer can arrange to meet with either or both of the parties. Normally, the information received and the notes of any meeting are disclosed to both parties.
- 29) Once the appropriate officer has made a provisional decision in relation to the complaint, they should send draft findings to each of the parties, providing them with an opportunity to respond within five working days.
- 30) The appropriate officer should consider responses before confirming the findings. The appropriate officer should finalise the findings within five working days and send it to each of the parties. This concludes the investigation.
- 31) If at any point during the investigation the appropriate officer encounters a delay in responding to/providing correspondence, the appropriate officer

should notify the complainant of the delay and provide details of when to expect a response.

- 32) Timescales for investigations into complaints about potential financial irregularity may be significantly longer. The Strategic Intervention Team will make every effort to inform complainants of progress and expected timescales. However, where a case is referred elsewhere (for example to the police), it may be necessary for information to remain confidential until all enquiries are completed.

What action the Skills Funding Agency can take

- 33) If a complaint is upheld, the SFA shall consider taking action against the provider in accordance with the key principles. The SFA may take the following action:

- Ask the provider to review its procedure to ensure non-recurrence.
- Ask the provider to review its decision in the individual case.
- Where the complaint is about a course funded by an Advanced Learning Loan, ask the provider to reimburse the complainant and/or the Student Loans Company part or all of the value of the Loan.
- Where the provider is an FE college, require the college to provide appropriate education to a named individual between 16 to 18 years old.
- Where the provider is an FE college impose additional conditions of funding.
- Consider the eligibility of provision for funding.

- Where the provider is an FE college, consider intervention in the management of the college.
- Invoke the clauses in the contract between the provider and the SFA relating to the breach.
- Terminate the contract.
- Recommend inspection of the provider to the Secretary of State.
- In cases of financial irregularity, recover funds and refer matters to the police (where there is evidence of a crime) and apply the SFA's policy on Funding Higher Risk Providers and Subcontractors.

If the complainant remains dissatisfied

- 34) If a complainant is dissatisfied with the way the SFA has dealt with their complaint against a provider, they should write to the Complaints Adjudicator, Legal and Governance Team, Skills Funding Agency, Cheylesmore House, Quinton Road, Coventry, CV1 2WT.
- 35) The Complaints Adjudicator will **not** investigate the original complaint against the provider but will look at whether the complaint has been handled appropriately. Complainants can also send any queries about this to complaintsteam@sfa.bis.gov.uk.



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